

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

Michael Barack, Michelle Barack, and Gerald Busbee,
individually and on behalf of a
class

Plaintiffs,

V.

Bankroll Capital Inc.

Defendant

§

CA No: 4:23-cv-00615-O

**DECLARATION OF CHRIS R. MILTENBERGER IN SUPPORT OF
PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT**

1. My name is Chris R. Miltenberger. I am lead counsel for Plaintiffs, and I am familiar with the file, records, and pleadings in this matter. I have personal knowledge of the facts contained herein, all of which are true and correct.

2. Despite proper service on Defendant Bankroll Capital Inc. (“**Defendant**”)(Dkt. #5), Defendant has failed to answer Plaintiffs’ Complaint or otherwise defend in this matter. A default has been entered by the Clerk (Dkt. #12).

3. Pursuant to the Telephone Consumer Protection Act (“**TCPA**”), Plaintiffs are entitled to statutory damages of \$1,500 for each willful violation of Section 227(b)(1)(A)(iii) and up to \$5,000 for each violation of the Texas Business and Commerce Code (§ 302.101).

4. Defendant's failure to answer the instant Complaint constitutes an acquiescence to the merits of the Complaint and that Plaintiffs have prevailed herein.

5. The amount of the statutory damages sought herein is the amount of \$39,000, representing statutory damages for 6 willful violations of Section 227(b)(1)(A)(iii) of the TCPA and 6 violations of the Texas Business and Commerce Code (§ 302.101).

| | # of Calls | 227 (b) | TBCC 302.101 | |
|-----------------|------------|--------------------|---------------------|---------------------|
| Michael Barack | 3 | \$ 4,500.00 | \$ 15,000.00 | \$ 19,500.00 |
| Michelle Barack | 1 | \$ 1,500.00 | \$ 5,000.00 | \$ 6,500.00 |
| Gerald Busbee | 2 | \$ 3,000.00 | \$ 10,000.00 | \$ 13,000.00 |
| Total | | \$ 9,000.00 | \$ 30,000.00 | \$ 39,000.00 |

6. Plaintiff also seeks costs for the filing fee in the amount of \$402.00.

7. The total sum-certain judgment sought by Plaintiff is \$39,402.00.

8. The Defendant in this matter is a corporation. Thus, by definition it is not a current member of the military or an infant or incompetent person. *See* 50 U.S.C. App. § 521(b)(1); Fed.R.Civ.P. 55(b)(2).

9. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

10. Executed on 02/06/2024.

Chris Miltenberger



Chris R. Miltenberger
Attorney for Plaintiff